



INTERIOR BOARD OF INDIAN APPEALS

Sam Netterville v. Aberdeen Area Director, Bureau of Indian Affairs

24 IBIA 80 (06/22/1993)

Denying reconsideration of:
24 IBIA 52



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

SAM NETTERVILLE,
Appellant

v.

ABERDEEN AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Denying Reconsideration
:
:
: Docket No. IBIA 93-90-A
:
:
:
: June 22, 1993

Appellant Sam Netterville seeks reconsideration of a June 7, 1993, order docketing and dismissing his appeal from a February 4, 1993, decision of the Aberdeen Area Director, Bureau of Indian Affairs. The Area Director's decision concerned appellant's application for an Indian Business Development grant in conjunction with an agricultural loan from the Bank of Hoven, South Dakota. The Board dismissed the appeal because the notice of appeal was not timely filed. 24 IBIA 52 (1993).

Appellant seeks reconsideration on the grounds that he should not be penalized for the "inadvertence/negligence of his attorney in not filing the Notice of Appeal with the Interior Board of Indian Appeals." 43 CFR 4.332(a) explicitly provides that "[a] notice of appeal not timely filed shall be dismissed for lack of jurisdiction." The Area Director's decision also informed appellant of the necessity to file a timely notice of appeal with the Board. The Board does not have discretion to consider an appeal that was not timely filed.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1 and 4.315, this petition for reconsideration is denied.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge